

**Final Report of Steve Bundred**

# Chair of the Higher Education Regulation Review Group (HERRG)

The better regulation of higher education and the work of HERRG in 2007/08

**31 July 2008**



# Higher Education Regulation Review Group

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31 July 2008

### HERRG Report

It is with a sense of fulfilment that I submit my final report on the work of the Higher Education Regulation Review Group.

It has been a real privilege to chair HERRG for the last two years – not least because, as I acknowledge in my report, there are few other roles in the public sector in which the link between the contribution made by individuals and the outcomes they produce is so clear. In this case, the individuals mainly concerned have been the members of HERRG itself, to whom I owe many thanks. All of them are experts in their field. And without their efforts, the genuine transformation that I have observed in the regulatory framework for higher education, to which my report refers, would not have happened.

Of course, experts do not always agree and HERRG is no exception. So I have tried to be transparent about the issues on which there is unanimity, and those on which there is not, by making selective use of the singular and plural first person pronouns. But one thing on which there is complete unanimity within HERRG is that the sector itself must now take clear and strong ownership of the better regulation agenda.

I very much hope that it will rise to this challenge. And I hope too that DIUS will continue to lend its support. There are recommendations in my report addressed both to DIUS and to Government as a whole that cannot be taken forward without continuation of the leadership and support that you and other ministers have shown for our work. I am deeply grateful for the commitment to better regulation that ministers have constantly displayed. It has made my own task very much easier, and far more rewarding, than it otherwise would have been. And it has also been a great personal pleasure to have worked closely with you in this role.

I will, of course, continue to take an interest in future in both the progress of the HE sector and in better regulation more generally. And I will therefore look forward to hearing about the response to my report in due course.

Yours sincerely



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## Introduction

1. I was appointed as Chair of the Higher Education Regulation Review Group (HERRG) in July 2006 in succession to Dame Patricia Hodgson. My appointment was for a two year period ending on 31 July 2008. This is therefore my final report.
2. It summarises the progress made and the issues dealt with by the Group over the past year, together with the actions taken by signatories to the Higher Education Concordat in pursuance of the Principles of Good Regulation. These principles were originally articulated by the Government's Better Regulation Task Force (BRTF) and are repeated in the Concordat. They are: proportionality, accountability, consistency, transparency, and targeting. My report also makes recommendations for future arrangements.
3. The need to streamline and improve the regulation of higher education was first recognised in 2002 when the BRTF published its report *Higher Education; Easing the Burden*. It was that report which prompted the appointment by the then Department for Education and Skills (DfES) of a Better Regulation Review Group (BRRG) chaired by Professor David VandeLinde, Vice-Chancellor of the University of Warwick; and it was the report of the BRRG in November 2003 which in turn prompted the creation of HERRG in 2004. At that time HERRG was sponsored by DfES. This responsibility transferred to the Department for Innovation Universities and Skills (DIUS) on its creation in 2007.
4. There have now been six years of sustained effort to ease the burden of regulation on universities and higher education (HE) colleges. It is therefore unsurprising that concern about excessive or unduly intrusive regulatory requirements within the sector has greatly diminished. Indeed it would be alarming if that were not the case. The key bodies that regulate the sector have become signatories to the Higher Education Concordat promoted by HERRG, and appear fully committed to its principles. Early signatories have delivered on the promises they made and HERRG has received generally positive responses to concerns it has raised about new issues as they have arisen.
5. With three significant qualifications, I therefore consider that the work of the Group is largely complete and that now is the right time to bring it to an end.
6. Not everyone within the sector, or indeed within HERRG itself, would necessarily agree with this conclusion. So it is important that the three qualifications attached to it are clearly stated and that the further work that will be needed in future is acknowledged by all concerned. These qualifications are as follows:
  - My report last year raised issues relating to the regulation of healthcare education. Progress has been made but more needs to be done. It is therefore reassuring that Lord Darzi's Next Stage Review report on the NHS, *A High Quality Workforce*, acknowledges that the better regulation of healthcare education within universities and HE colleges forms part of the remit of the Council for Healthcare Regulatory Excellence (CHRE) and recommends that the CHRE should undertake research to identify and promote best practice in this area. The HE sector and the relevant officials within DIUS will need actively to engage with the CHRE in this project, to ensure that it is taken forward in a positive way. The sector also needs to support the work of the CHRE more generally in improving the regulation of healthcare education and training and the impact of this on higher education institutions (HEIs).

- My report last year also raised concerns about the role of professional bodies in regulating higher education, including their interface with statutory regulators covering the same professions. Although some progress has been made in these areas, similar concerns are repeated in this report and still need to be addressed. However, they are in my view beyond the competence of a body such as HERRG to deal with. They raise issues which are the concern of many different Government departments and which touch also on European Union (EU) law and wider international protocols. It is therefore for relevant ministers and their officials, perhaps supported from within the Better Regulation Executive (BRE), to take these issues forward and for the higher education sector to see that they do.
- It is in the nature of the regulation of higher education that new issues will arise in the future that appear to impose a disproportionate or unnecessary burden on institutions or create concern within them. The “Gatekeeper” role that HERRG has played in identifying new issues of concern as they arise and seeking to resolve them is therefore one that will continue to be needed. In my view, this can best be achieved by embedding debate about better regulation in the ongoing dialogue that takes place between Government, the representative bodies that exist within the sector and the different bodies that regulate the sector. However, I recognise that this will require a strengthening of the present arrangements for consultation and liaison between the various bodies concerned.

7. HERRG is proud of the contribution it has made to the substantial improvements that have been seen in the regulation of universities and HE colleges over recent years, some of which are described in this report. We are also grateful for the support of ministers and officials in DIUS and its predecessor, DfES. And I am personally grateful for the contribution made by members of the Group and for the support given to their work as HERRG members by the institutions in which they are employed. Without the input of HERRG members and the expert knowledge of day to day reality within the sector that they bring, it would not have been possible for me to fulfil the remit given to me in 2006 on my appointment by the Minister of State for Lifelong Learning, Further and Higher Education, Bill Rammell.
8. It is for that reason that I believe the HE sector itself now needs to take clear ownership of any arrangements needed for identifying and resolving new concerns about regulation that may arise in the future. It is for the sector collectively to decide what those arrangements should be, but following discussions with the principal bodies concerned some thoughts on this are set out in this report.

## The role of HERRG

9. The Higher Education Regulation Review Group was originally established in 2004 to advise the Minister of State for Lifelong Learning, Further and Higher Education, Bill Rammell, on the better regulation of higher education in England, and to promote the better regulation of the sector more generally. As explained above, its origins can be found in the 2002 BRTF report *Higher Education; Easing the Burden* and in the subsequent BRRG report. Its detailed terms of reference can be found on the HERRG website.<sup>1</sup>

<sup>1</sup> <http://www.dfes.gov.uk/hegateway/hereform/improvingregulation/index.cfm>



10. Since the creation of HERRG, specific ministerial responsibility for the better regulation of higher education, and hence for the sponsorship of the Group, has transferred to the Parliamentary Under Secretary of State for Intellectual Property and Quality – initially to Lord Triesman and more recently to Baroness Morgan of Drefelin. It is to her that this report is addressed.
11. It should be noted, however, that this transfer of specific responsibilities for sponsorship of HERRG has in no way diminished the interest that Bill Rammell has continued to show in the better regulation of higher education and in the work of the Group.
12. Indeed, all three ministers that the Group has reported to while under my chairmanship have provided practical support in taking forward our work on many occasions. They have lent their authority to our role, for example by publicly and privately encouraging regulators to engage with HERRG and to embrace the Principles of Good Regulation. They have been willing to pursue issues with other ministerial colleagues when it has been necessary for them to do so. And they have made time available to discuss the work of the Group and to promote it at conferences and workshops.
13. HERRG is therefore deeply grateful to Bill Rammell, Lord Triesman and Baroness Morgan for their unfailing support.
14. I was appointed by Bill Rammell in July 2006 for a two year period. My appointment terminates on 31 July 2008. At the time of my appointment HERRG had already published what was described as its Final Report *Less regulated: more accountable*. This set out the considerable progress that had been achieved since 2004, including the development of the HERRG Concordat to which 16 regulatory bodies were signatories.
15. I was asked by Bill Rammell to monitor the implementation of the Concordat and to report on the extent to which signatories to it were delivering the specific undertakings given by each of them. I was also asked to encourage additional bodies to become signatories to the Concordat and to monitor developments in the regulation of higher education more generally, providing advice to Ministers as necessary on how to respond to them.
16. Around the same time, HERRG was being reconstituted with a more limited role than the one it had previously been given. This new role was to be confined to gatekeeping. I took the view that the role I was being invited to fulfil could not be undertaken effectively without advice and support from within the sector itself and I therefore suggested that I should also chair the new Group, so that it might provide me with this. HERRG therefore remained in existence, with much the same as its previous remit, but with a reconstituted membership that nevertheless included some of its original members.
17. As before, the members of HERRG are drawn from administrative and academic practitioners within HE and include those with experience of the governance of the sector.
18. HERRG is supported by DIUS officials but is independent – both of the Department and of the higher education sector. Likewise, my role as Chair of HERRG has no connection with my role as Chief Executive of the Audit Commission.

19. The Group has met on four occasions since September 2007 and convened a workshop on 23 June 2008 which was attended by Group members, representatives of the sector and several regulatory bodies. The membership of the Group and attendance by HERRG members at each of its meetings and the June workshop is shown in **Appendix 1**. It should, however, be noted that most of the work of the Group is conducted outside these meetings – through email exchange between HERRG members or meetings of sub-groups of HERRG members (or of officials within the HERRG Secretariat) with bodies that impact on the HE sector in some way.
20. A particular focus of the 23 June workshop was the role of professional bodies in the regulation of higher education. The workshop was addressed by Baroness Morgan and chaired by Ruth Thompson, the DIUS Director General for Higher Education. HERRG is grateful to both for making time available to support the work of the Group in this way.
21. My first annual report was published in September 2007. In addition to chronicling the routine work of the Group over the previous year it recorded further progress in the development of the Higher Education Concordat and noted the implementation of the undertakings given by its signatories. My report also identified areas of continuing concern and made recommendations addressed both to Government and to universities and HE colleges.
22. This is my second and final report. It again records considerable progress over the past year but also notes some frustrations. It again makes recommendations addressed both to ministers and to the representative bodies within the sector. In particular, it addresses the arrangements that might be needed for ensuring that the momentum behind the drive for better regulation of higher education does not slow when the work of HERRG has come to an end.

## The Higher Education Concordat

23. The key instrument employed by HERRG for the better regulation of higher education has been the Higher Education Concordat on quality assurance arrangements and data collection, to which 16 bodies were initial signatories.
24. Signatories commit themselves to adopting the Principles of Good Regulation, referred to in paragraph 2 above, which were developed by the BRTF and are now promoted by the Better Regulation Executive which is part of the Department for Business, Enterprise and Regulatory Reform. The principles were stated within the Concordat as follows:  
  
*“Good Regulation is proportionate, consistent, transparent, targeted and accountable. Best practice in management and governance within autonomous higher education institutions is to be encouraged and supported. Unnecessary burdens from external bureaucracy and regulation should be reduced.”*
25. The Concordat adopts a wide definition of “regulation” – one which embraces data collection and quality assurance as well as the traditional activities associated with regulation, which are often taken to be confined to the control of licences to practise or trade.
26. Annexes provided by each of the Concordat signatories set out details of the specific actions they have pledged to take in pursuit of these principles, within their own areas of responsibility.

- 27.** In addition to monitoring the extent to which such pledges have been honoured, a part of the remit given to me was to develop the Concordat by encouraging other bodies involved in the regulation of higher education to become signatories to it, or to embrace its principles in other ways.
- 28.** To these ends, all HERRG members have been involved in meetings both with existing signatories and with other bodies which might become signatories, or which might have influence over them. Occasionally, signatories or potential signatories have been invited to HERRG meetings. More usually, a small sub-group of HERRG members, or members of the Group's secretariat, have visited the premises of the body concerned or met them on DIUS premises.
- 29.** Meetings have been held on several occasions with the principal regulators of the HE sector, including the Higher Education Funding Council for England, (Hefce), the Quality Assurance Agency (QAA) and the Higher Education Statistics Agency (HESA), which although not a regulator in the strict sense of that word has been treated as one for the purposes of the work of HERRG, as HESA imposes data collection burdens on universities and HE colleges.
- 30.** In addition to these, specific discussions in connection with the development of the Concordat have been held with the following bodies during the past year:
- Architects Registration Board (ARB)
  - British Psychological Society (BPS)
  - British Standards Institute (BSI)
  - Council of Deans and Heads of UK University Facilities for Nursing and Health Professions
  - Council for Healthcare Regulatory Excellence (CHRE)
  - Department of Health (DH)
  - Engineering Council UK (ECUK)
  - Foundation Degree Forward (FDF)
  - Gateways Collaborative Forum
  - General Social Care Council (GSCC)
  - Institution of Civil Engineers (ICE)
  - Learning and Skills Council (LSC)
  - Office for National Statistics (ONS)
  - Research Councils UK (RCUK)
  - Royal Institute of British Architects (RIBA)
  - Skills for Health (SfH)
  - Training and Development Agency for Schools (TDA)
  - UK Inter-Professional Group (UKIPG)

31. HERRG members have also promoted the work of the Group by speaking at conferences of the representative bodies within the sector and maintaining contact with key office holders. Among the conferences or meetings which I, or other HERRG members, have addressed during the past year are those of:
- Universities UK (UUK);
  - The Committee of University Chairmen (CUC);
  - The Association of Heads of University Administration (AHUA); and
  - The Association of University Administrators (AUA).
32. There have been tangible outcomes during the past year from these aspects of the work of the Group. When the Higher Education Concordat was first published in May 2006 there were 16 signatories. Two of these, the Office for Standards in Education and the Adult Learning Inspectorate, were subsequently merged, reducing the total to 15. I was nevertheless able to report last year that 22 bodies had signed the Concordat or agreed to do so.
33. This year I am able to confirm that the bodies that had previously merely agreed in principle have since provided annexes to the Concordat in a form acceptable to HERRG members and have become full signatories. Other bodies have also signed the Concordat or agreed to do so. In consequence, there are now 28 Concordat signatories or intended signatories. They are listed in **Appendix 2**.
34. Although this represents welcome progress, there are also bodies that have chosen not to become Concordat signatories despite being encouraged by HERRG to do so, or that have not responded in any way to HERRG's approaches. In some instances, the Group has chosen not to pursue these bodies further as their impact on universities and HE colleges is not great. These organisations have therefore been regarded as of low priority for us.
35. However, there are two areas in respect of which we have been disappointed by the lack of response from bodies we have sought to engage in debate about their commitment to better regulation.
36. The first of these relates to Sector Skills Councils (SSCs). In my report last year I noted that the role of SSCs was still developing following publication of the Leitch review in December 2006. But I made the point that it was important to ensure that the role of SSCs, in articulating to the HE sector the future requirements of employers, did not develop into a form of regulation that added to the burden on higher education institutions.
37. Since then, HERRG has not been made aware of any specific complaints from within the sector about the role of SSCs at present, and that is in many ways encouraging. However we have also observed reluctance on the part of some SSCs to commit themselves in an active way to the Principles of Good Regulation.
38. Skills for Health is, of course, an exception to this. It was among the original signatories to the Concordat and continues to seek ways of avoiding duplication and overlap in the regulatory requirements faced by HEIs. But there are many other SSCs operating in areas which are relevant to the disciplines taught within higher education. And there is continuing anxiety within the sector about what might happen in the future.

39. We would therefore wish to see Government, to which the recommendations about SSCs in my report last year were addressed, provide some greater encouragement to SSCs to make a clear commitment to the Principles of Good Regulation, equivalent to that of signatories to the Higher Education Concordat.

## Recommendation 1

*Government should require Sector Skills Councils to make an explicit commitment to the Principles of Good Regulation and to set out what actions they intend to take in pursuit of these principles, in the same manner as signatories to the Higher Education Concordat.*

40. The second area of concern relates to the regulation of healthcare related professional education provided within HEIs. Again, I noted in my report last year that there are a large number of regulatory bodies operating within healthcare, reflecting the many different disciplines that exist within the sector and the high degree of specialist knowledge required by practitioners in each of them. There are also some statutory regulators in disciplines where both statutory and professional body regulation may overlap. Some of the regulatory bodies, both statutory and professional, are signatories to the Concordat. But others are not. And healthcare continues to be the area in which universities observe the greatest degree of variation in the approach taken by different regulators.
41. On more than one occasion, HERRG has expressed concerns to senior officials within the Department of Health about the lack of commitment to better regulation that appears to exist among some bodies operating within the NHS. An official from the Department has attended a HERRG meeting to discuss this; there have been separate meetings with other relevant DH and NHS officials; there has been correspondence on specific areas of concern; and we have encouraged DIUS ministers to raise relevant matters in their routine meetings with their counterparts in Health. However, until very recently, the impact of the regulatory burden imposed on HE institutions by the healthcare professions and other NHS bodies has not appeared to have been a clear priority, either for the Department of Health or for the NHS.
42. It is therefore an encouraging sign that the Department of Health has now acknowledged that the better regulation of healthcare education within universities and HE colleges forms part of the remit of the Council for Healthcare Regulatory Excellence.
43. This has arisen from Lord Darzi's Next Stage Review report on the NHS, *A High Quality Workforce*, in which he recommends that the CHRE should undertake research with a view to defining good practice in the quality assurance of education providers by healthcare regulatory bodies. Having done so, it will be part of the role of the CHRE to promote good practice in this area.
44. The HE sector and the relevant officials within DIUS will need actively to engage with the CHRE in this research project, to ensure that it is taken forward in a positive way. The sector also needs to support the work of the CHRE more generally in improving the regulation of healthcare education and training within higher education institutions. At a meeting held in October 2007 between HERRG members and senior staff of the CHRE it emerged that although the CHRE was supportive of what HERRG has been seeking to achieve, it apparently saw the issues we raised in relation to the interaction between healthcare professional bodies and universities as being peripheral to its core

mission. It is reassuring that this is now to change. But the HE sector and the relevant officials within DIUS will need to work closely with the CHRE to maximise the opportunity provided by this change.

## Recommendation 2

*DIUS and UUK, together with Guild HE, should work closely with the Council for Healthcare Regulatory Excellence to help it undertake research aimed at defining good practice in the quality assurance of education providers by healthcare regulatory bodies; and they should support it more generally in promoting the better regulation of healthcare education and straining within higher education.*

45. Any discussion of developments over the past year in relation to the Higher Education Concordat would be incomplete if it did not record the continuing commitment of the principal regulators of higher education to the Principles of Good Regulation and to the undertakings given by them as Concordat signatories.
46. In many instances, HERRG members and others believe that the routine commitment now displayed to the Principles of Good Regulation is indicative of a real cultural change. For example, HESA is no longer seen within the HE sector as simply being at the mercy of statutory customers. Instead it is recognised as engaging in continuous dialogue with them about the wisdom and proportionality of their requests, and the most appropriate way of meeting their legitimate information requirements, in ways that the sector would generally applaud.
47. This same observation applies to other bodies also. In preparation for the HERRG Workshop on 23 June 2008, signatories to the Concordat were asked to provide updates to their annexes and these were circulated to all participants. Many of them include examples of good practice from which other regulators could usefully learn. They have therefore been posted to the HERRG website and can be viewed at:  
<http://www.dfes.gov.uk/hegateway/hereform/improvingregulation>
48. In the introduction to my report, at paragraph 4 above, I refer to the significant advances there have been over recent years in the regulation of HE and to the role of bodies such as Hefce, HESA and the QAA in bringing these about. These advances include such developments as:
  - A major reduction by Hefce in the number of special funding streams and bidding processes, and the development of its “single conversation” with institutions, together with Memoranda of Understanding between Hefce and TDA, LSC and RCUK;
  - The introduction of web-based data collection by HESA and significant improvements in the services it provides to institutions through the delivery of the Higher Education Information Database for Institutions (HEIDI) project; and
  - The ending of discipline audit trails as part of QAA institutional audit and its work in establishing Memoranda of Understanding with professional bodies such as the Royal Institute of British Architects (RIBA).

There are of course other examples that could be mentioned and there are other bodies with similarly impressive tales to tell, but it is worth stressing the extent of the progress that has been made for two reasons.

49. First, it lends weight to my conclusion that while there are some outstanding issues still to address and some ongoing work that will need to be catered for, HERRG’s contribution to the better regulation of higher education is now largely complete.



50. Second, it supports my view that although there are some fears within the sector that there will be backsliding by the three principal regulators once HERRG comes to an end, these fears are misplaced. I have greatly appreciated the positive approach taken by Hefce, HESA and the QAA in their dealings with HERRG and I do not doubt that their commitment to good regulation is genuine and lasting.

## **The regulation of professional education**

51. A key feature of my report last year was the concern within HERRG, and within the HE sector itself about the role of professional bodies in regulating higher education. I made the point that many universities derive benefit from their contacts with the professions and senior academics are often also senior figures within their professional bodies. Often, universities value the feedback they receive from professional bodies about how their courses compare with those provided by other institutions, and invariably they use professional body accreditation within the promotional material through which they recruit students. Moreover universities recognise the legitimate role that professional bodies play in accrediting HE courses and ensuring that their content will equip graduates to enter the professions concerned.
52. I also acknowledged that professional bodies may have long-standing engagement in university education and training, sometimes enshrined in a Royal Charter, and that the largest professional bodies also have a global reach. Their accreditation of courses provided by overseas universities has historically been important in the promotion of British culture, values and professional expertise internationally and continues to be so. As such, there is an economic importance to the continuing role of some of them in accrediting provision within the sector.
53. However, I nevertheless voiced concerns expressed to me in many discussions with senior figures within the HE sector about inconsistencies in the approach taken by different professional bodies, inappropriate behaviour on the part of some of them, and occasional duplication between their role and that of statutory regulators.
54. The regulation of professional education has continued to be a major concern of HERRG throughout 2007/08. And although some progress has been made, this is an area where momentum may be lost if there is no clear leadership of action to address the concerns within the sector once HERRG no longer exists.
55. But equally, the issues that have been raised with us in relation to professional regulation are not ones that HERRG would be competent to resolve even if it did continue to exist. There are many different professional bodies and many different Government departments with an interest in these professions. There are also international protocols and EU directives governing professional regulation and these are often at the root of the inconsistencies that universities find frustrating. Fundamentally therefore, these are matters for Government to address.
56. For that reason, we have so far been encouraged by the response from Government to the issues raised in my report last year. I discussed professional regulation with the then Parliamentary Under Secretary of State for Intellectual Property and Quality, Lord Triesman, on more than one occasion and he attended the HERRG meeting in January 2008, shortly before he left the Government. I was grateful for the energy he displayed in wanting to address our concerns, for his willingness to raise them with Ministerial colleagues in other Government departments and for his initiative in placing these issues on the agenda of the Gateways to the Professions Collaborative Forum.

57. We agreed that one way forward might be to identify exemplars of good practice within the professions and encourage others to follow their lead.
58. It was with that aim in mind that professional regulation was made the major focus of the workshop on 23 June 2008, at which Baroness Morgan gave the keynote address. The workshop was attended by around 75 delegates, including most Concordat signatories, representing HEIs, professional bodies, statutory regulators, and Government departments in addition to members of HERRG itself.
59. HERRG has been impressed with the approach to professional regulation that has been taken since 2003 by the UK engineering profession, comprising 36 different professional bodies varying in size and each with their own unique history. Some 21 of these professional bodies accredit HE programmes but do so in accordance with a common framework based on output standards.
60. There is no prescription of delivery methods or programme structure and although input measures such as the cohort entry profile are considered, these are indicators and do not give rise to requirements. We believe that many professional bodies could learn much from this framework, developed by the Engineering Council UK (ECUK), and would urge Government to base a wider review of professional regulation on this approach.

### **Recommendation 3**

*Government should continue to promote better regulation among professional bodies and should conduct a review of their regulatory role using the engineering profession as an example of good practice.*

61. Given the cross-departmental nature of the issues, a Government initiative to address them is perhaps best led by the Better Regulation Executive within the Department for Business, Enterprise and Regulatory Reform (BERR).
62. However, there is also a role for the sector to play in relation to professional regulation. HERRG has placed this issue on the Government's agenda at the prompting of many senior people within higher education. It is therefore incumbent on the sector to ensure that pressure is maintained on ministers to address the issue when HERRG no longer exists.
63. But the sector has wider responsibilities than this. We are aware that the frustrations expressed to us by senior staff within HEIs have often arisen because of the complicity of staff at school or departmental level within those same institutions in the practices complained about. The sector therefore needs to take steps to ensure that professional bodies do not receive mixed messages about what is desirable or acceptable in their relationship with the HE sector; and UUK and Guild HE need to provide leadership in this area.

### **Recommendation 4**

*UUK and Guild HE should take a lead in maintaining pressure on Government to address concerns about the regulatory role of professional bodies; and they should provide leadership also in addressing the extent to which the sector itself lends support to practices that give rise to these concerns.*



64. There is one further proposal that I believe to be worthy of consideration in relation to the professional regulation of higher education. At the 23 June HERRG workshop we received a presentation from the British Standards Institute (BSI) and arranged for discussion to take place around tables about the possibility of developing standards applicable to good regulation, with a corresponding “kitemark” to which regulators might aspire. We received information about other areas in which standards had been developed in relation to integrated management systems, risk-based management, and learning services; and we could see some relevance to the regulation of higher education in the approach taken to each of these.
65. There are arguments to be made both for and against a BSI standard for regulation and no clear consensus emerged from the workshop, or in subsequent discussion among HERRG members. Clearly, there would need to be a substantial degree of support for this, especially among regulatory bodies, for it to succeed. Ultimately, it is therefore for individual regulatory bodies to consider whether they would wish to work with the BSI to take this idea forward, and for that reason I make no specific recommendation on this proposal. But Government may wish to encourage the relevant bodies to give this idea full and proper consideration.

### **Other issues considered by HERRG in 2007/08**

66. HERRG has met as a group under my chairmanship four times a year. In 2007/08 our meetings were held on 26 September 2007 and on 17 January, 17 April and 17 July 2008. In addition, HERRG members played an active role in the 23 June 2008 workshop to which reference has already been made.
67. HERRG members have also met with a range of external bodies that have an interest in the regulation of higher education or an ability to influence it. For example, in December 2007 a group of HERRG members met with the Chair of the Council of Higher Education Internal Auditors to discuss ways in which internal controls within universities might be strengthened, so that regulators might place greater reliance on them.
68. One of the roles the Group has played has been to track progress on issues that have previously been raised with us as matters of concern, and on which we have prompted action by the relevant bodies. A good example of this is provided by the relationship between the Leadership Foundation and Hefce. HERRG has noted previously that we were at one time worried about apparent overlap between Hefce’s work on leadership, governance and management, and the role of the Leadership Foundation, but that we had raised this as a matter of concern and had been encouraged by the response.
69. This remains the case. In our view there is now very effective working between the two bodies and we are pleased at the progress that has been made, which was evident from a seminar organised jointly by them on 24 January 2008 – *Leadership, Innovation, Excellence in Higher Education* – and attended by over 300 delegates.
70. Another very important role of the Group has been to respond to sector-wide consultations from the particular perspective of better regulation. And we have also seen it as part of our role to identify and discuss potential burdens on HEIs arising from new regulatory requirements.

**71.** In the context of these different roles we have discussed the following matters during the course of the past year and taken action in respect of the majority of them:

- The Delivery Partnership consultation on improving the higher education applications process
- The RCUK Assurance programme;
- The Skills for Health consultation on the quality assurance of NHS funded education and training;
- Redundancy regulations relating to HEIs;
- The work of the Equality Challenge Unit in developing tools to assist HEIs on equalities issues;
- The quality assurance of workplace learning;
- Home Office requirements for overseas students;
- The implications for HEIs of the Charities Act 2006;
- The DIUS consultation on Voluntary Giving in higher education;
- The DIUS “Customer First” programme for reform of the student finance delivery service;
- The LSC Framework for Excellence in HEIs;
- Changes in the accounting treatment of US students studying at British HEIs who are in receipt of federal aid from the US government;
- Hefce requirements for equality data;
- The Hefce consultation on revisions to its financial memorandum;
- HESA’s Destination of Leavers from HE survey;
- New data collection arrangements for General Teaching Council registration of students on Initial Teacher Training courses;
- The DH review of the NHS bursary scheme dealing with the travel and accommodation costs of medical students; and
- The DIUS Simplification Plan.

**72.** I am conscious that many of the above issues will also have been discussed within other sector-wide forums, or should have been. That is among the reasons why I am concerned about a disconnection between discussions within HERRG about the better regulation of higher education and other discussions about the relationships between the HE sector and the bodies that fund and influence it. I deal further with this issue in the following section of this report.

**73.** I also express in that section my view that it is not healthy for the HE sector to be as dependent as it currently is on the support of Government for the promotion of better regulation.

**74.** This is not simply a concern about possible future changes in Government priorities. My view is that only the sector itself can properly judge the extent to which new regulatory requirements impose a burden on universities and colleges. Government is not close enough to day to day practice within higher education to be able to

make this judgement. Moreover, Government is itself a regulator of higher education and there will inevitably be occasions when its other interests will conflict with its 'in principle' commitment to better regulation. The sector needs to be able to challenge Government on such occasions.

75. This point is reinforced by the fact that while HERRG remains appreciative of the support it has continued to receive from Government, we have nevertheless experienced frustrations in the past year arising from our dealings with Government departments.
76. For example, we have struggled to persuade the Department of Health that the better regulation of healthcare related education and training within HEIs should be seen by it as a priority for action. And although there is now some encouraging movement in this regard as noted in paragraphs 42 and 43 above, it was nevertheless disappointing to learn that the NHS had abandoned its contract to take data from HESA on medical related training and that Strategic Health Authorities will instead impose separate burdensome data submission requirements on universities. Although HERRG has voiced its strong concerns about this, including in our discussions with Lord Triesman, and Hefce has brokered discussions between the NHS and HESA, we have not been able to make any real progress.
77. We were also disappointed that DIUS, against our advice, has instructed HESA to collect, on a compulsory basis from 2007/08 onwards, data from HEIs on offshore students. We nevertheless took some comfort from the commitment made alongside this decision that it will make proposals for compensatory reductions in the data collection burden at a later date.
78. Apart from the issues detailed above, there have been many other items discussed by HERRG during 2007/08. With the support of the HERRG secretariat, I have dealt with correspondence and emails from individuals and organisations that have raised matters relevant to the work of the Group. And HERRG members, both individually and as sub-groups of HERRG, have identified areas of concern and pursued these with the relevant bodies.
79. Among the most important of the issues considered by the Group as a whole has been the work of the Quality Assurance Framework Review Group (QAFRG). HERRG has been strongly supportive of QAFRG and Dame Sandra Burslem, who has chaired it, attended the HERRG meetings on 26 September 2007 and 17 April 2008 to discuss the progress of her work and brief us on her conclusions and recommendations. HERRG members have also commented on the work of QAFRG between meetings and Dame Sandra attended the HERRG workshop on 23 June 2008.
80. QAFRG is a good example of a sector-led initiative in an area relevant to the work of HERRG which has achieved considerable success. It was established jointly by UUK, GuildHE and Hefce and has made a significant contribution to the better regulation of higher education in the three years of its existence. It has published three reports, making recommendations about the QAA institutional audit process, the National Student Survey and Teaching Quality Information, and collaborative provision audit. Each of these has made an impact, especially in relation to the approach taken by Hefce and QAA in the areas it has reviewed. It was also reassuring to note that the QAFRG's third report has helped to reinforce some of HERRG's messages to Government about Sector Skills Councils.

## Arrangements for the future

81. One of the conclusions expressed by Dame Sandra Burslem in her final QAFRG report was that “whereas the quality assurance of provision within higher education was once the subject of contentious dispute between those who provided and those who regulated, that is no longer the case”. I share this view. I believe it is true also of other aspects of the regulation of higher education. Although there will continue to be issues requiring attention, the principal causes of concern that gave rise to the BRTF report in 2002, to which reference is made in paragraph 3 above, have now been addressed.
82. HERRG has played its part in bringing about this improvement, and HERRG members can be proud of the contribution they have made. But the very fact of HERRG’s success is part of the reason why I believe it is now time to bring the Group to an end, and why, with the expiry of my term as Chair of HERRG on 31 July 2008, I would not advise ministers to appoint a successor.
83. Although there are still issues to address, for reasons outlined in paragraphs 73 to 77 above, I believe that a continuing reliance within higher education on a Government sponsored body to promote better regulation would prove to be a mistake.
84. Moreover, the sector cannot assume that the political capital, intellectual effort, and administrative resource that the Government has been willing to invest in better regulation since 1997 will always be available to it. Priorities may change – both under the present Government and any possible future successor.
85. While HERRG has valued the support of sector-wide bodies during the last four years, it is therefore our unanimous view that in future it will not be enough for the sector merely to support the better regulation agenda; it needs to acknowledge its responsibility to take clear ownership of this agenda and maintain the momentum that HERRG has helped to establish.
86. With these thoughts in mind, HERRG consulted sector-wide bodies and the principal regulators on possible future arrangements following its meeting in April 2008 and I convened a meeting of them on 14 July. Those attending included representatives of UUK, GuildHE, AHUA, BUFDG, Hefce, HESA and QAA.
87. It is fair to say that although there is an emerging consensus about the best way forward, there is as yet no general agreement on the details of this; and the absence of an existing established consultative forum within the sector is a handicap. However, in the light of the discussions referred to above, and having regard both to the issues that will remain outstanding when HERRG ceases to exist and to possible future tasks, I set out below some thoughts on the steps that now need to be taken.
88. These are in no way intended to be prescriptive. It follows from HERRG’s strong belief that the sector itself needs to take clear ownership of the better regulation agenda, that it is for bodies within the sector to determine the detail of future arrangements.
89. It is nevertheless worth recording the near unanimous view that arrangements of some sort should be put in place to follow on from the work of HERRG. While there is wide recognition of the success of HERRG and the value it has added, there is also recognition that attention to better regulation will continue to be needed. This, therefore, represents a clear challenge to the principal bodies that represent the sector – UUK and GuildHE.

90. In the discussions that have been held with interested parties about future arrangements, some areas of consensus have emerged, along with some key issues on which there are different views.
91. There is, for example, general agreement that while the regulation of education provision in healthcare related disciplines and the role of professional bodies in regulating universities are key outstanding issues, these can only effectively be taken forward by other bodies, in the manner suggested by recommendations 2 and 3 of this report. The sector can play a supportive role on these matters, and must continue to press for them to be resolved, but others will be in the lead.
92. Some other issues have also been identified as potential areas of future concern – but ones in respect of which the leadership in resolving them must come from elsewhere than a successor body to HERRG. For example, the HE sector will look to Hefce to moderate the impact of any regulatory requirements upon universities and HE colleges arising from the Charities Act 2006 and the forthcoming Research Excellence Framework. Similarly, it will expect vigilance from within the BRE on any further regulatory requirements by the Home Office in respect of overseas students. And it will look to the Framework for Excellence, embracing the work of the new FE Information Authority and the successors to the LSC, to address the interface between further and higher education.
93. But there is also general agreement that the sector needs to establish a group that can, at the minimum, strengthen the arrangements for liaison and consultation between the bodies that represent higher education and the bodies that regulate it; that can equally undertake the “Gatekeeper” role that HERRG has fulfilled and which is referred to at paragraph 6 above; and that can also lend support to the other bodies which must have responsibility for taking forward key outstanding issues, most notably CHRE and BRE.
94. There are existing sector-wide bodies that will undoubtedly have a contribution to make. For example, I believe the Higher Education Senior Managers’ Forum has an important supportive role to play, although it cannot be expected to provide the necessary leadership. And HERRG has been greatly appreciative of the support we have received over the past four years from the Committee of University Chairmen (CUC). So we would wish to see the CUC have a continuing engagement. But our discussion has focused on what a new body might look like, who would convene it and what role it would have.
95. Three key issues have emerged on which there are divergent views and which will need to be addressed in order to provide a complete answer to these questions. They are as follows:
  - What is meant by “the sector” in the context of the need for sector ownership of better regulation? More specifically, does it include regulatory bodies?
  - Should any proposed new body have an independent chair? If so, why? And drawn from where?
  - How will any new arrangements be resourced? And how will transitional arrangements be dealt with?

My own views on these three issues are set out below. In some instances, they are put forward by way of observation. But recommendations also follow. I would comment, however, that the order in which these questions have been raised is also, I believe, the order of their importance.

96. My starting point on the role of regulatory bodies themselves in any new group is the observation that the principal regulators of higher education claim that they have experienced added value from the work of HERRG. They say that it has provided a reality check on some early thinking by them on new initiatives and a forum in which they can exchange ideas with practitioners from within the sector, with some degree of privacy. In other words, regulators want to talk to the bodies they regulate, and see such dialogue as essential to enabling them to make good decisions.
97. And their definition of good decisions does not differ markedly from that of regulated bodies – because everyone acknowledges that regulation serves a valuable purpose and, as noted previously, signatories to the Higher Education Concordat have genuinely embraced the Principles of Good Regulation.
98. However, the responsibilities of regulators also require them to maintain their independence of the bodies they regulate. If they failed to do this, public confidence in regulation would be lost.
99. Regulators do not therefore believe that they should be formally accountable to a body comprised solely of university representatives. They recognise a wider accountability to key stakeholders, of which HEIs are the most important, but they believe this wider accountability is best served by strengthening the current arrangements for consultation within the HE sector in which they participate on an equal footing.
100. The key Concordat signatories therefore want to be a part of any new body that is established to take forward the better regulation agenda, and I agree with them on this. I can also see wider value in establishing formal mechanisms to ensure better liaison between representatives of the sector and the bodies that regulate it. There are matters that need to be discussed routinely other than regulation, and it is surprising that there is no formal mechanism for doing so on a regular basis within higher education.
101. Such fora exist in other sectors and the point has been made in our consultation with sector wide bodies that in individual institutions there are very often staff-student councils that seldom have important items to discuss but that are always available to be called upon to resolve issues within their remit if required.
102. In my view, therefore, the way forward probably lies with a standing consultative forum, established jointly by UUK, Guild HE and Hefce. I envisage that other representative bodies such as AHUA, and key regulators such as QAA and HESA, would also be in membership, but that the detailed working arrangements would provide clear recognition of the different roles, responsibilities and accountabilities of regulators and regulated bodies. If it is felt to be necessary, these arrangements might allow for pre-meetings without the regulators in attendance, so that regulated bodies could consider issues they wished to raise. But these are details for the sector itself to work out.
103. Although regulation would be an important part of the agenda of such a body, I would hope that it would provide a useful forum in which to discuss other issues also. It would not need to meet frequently – perhaps no more than two or three times a year, and I would expect senior DIUS officials to attend all meetings if called upon to do so.

## Recommendation 5

*UUK and Guild HE, in concert with Hefce, should take a lead in convening a standing forum for regular liaison, consultation and dialogue between universities, HE colleges and the bodies that regulate them, with regulation itself forming part of the agenda for these discussions.*



- 104.** I believe that a body of the kind I have described above would not require an independent chair, not least because I am unclear as to what added value an independent chair would bring. However, I accept that at present this is a minority view.
- 105.** The reason some voices within the sector would wish to see a new body having an independent chair is that they believe this role has to date been key to HERRG's authority with the bodies that regulate HE. There is some truth in this. But, at the same time, it is only part of the story. And I consider that belief in the importance of an independent chair also involves a failure to recognise how far we have moved since 2003. Moreover, the more inclusive framework for the future proposed in recommendation 5 above would represent a significant departure from the previous model in which an independent chair has been found to be useful.
- 106.** Several of those we have consulted about future arrangements argue that having an independent chair of HERRG has given weight to the drive for better regulation of higher education in a way that the sector itself could not have provided. And this argument is sometimes expressed in a belief that a purely sector-led body would have been unable to influence external organisations, including Government departments beyond DIUS, in the way that HERRG has managed to achieve. They draw a distinction between HERRG and Dame Sandra Burslem's QAFRG, arguing that the latter was a body established by the sector and seeking only to influence bodies within the sector, so the success of QAFRG does not contain wider lessons for the future promotion of better regulation of higher education. Those making these points, including members of HERRG itself, therefore conclude that an independent chair will be needed for any future group.
- 107.** But I do not accept much of this. Higher education is one of the largest sectors of the economy. Many key individuals within it hold prominent and influential positions within public life. I am in little doubt that those responsible for leading and managing our universities and HE colleges have greater ability to influence both regulators and legislators than they may appreciate. I am equally in no doubt that a sector that has produced world class universities, of which we are justly proud, has the capacity to provide leadership of the better regulation agenda from within its own ranks. And it is equally capable of persuading those beyond its ranks of the merit of embracing the Principles of Good Regulation, which will continue to be part of Government policy for the foreseeable future.
- 108.** However, I do not discount the role that a suitably eminent person who would be accepted as a neutral referee might need to play in a body of the kind suggested in paragraph 102 above, given that both regulators and regulated bodies would be in membership of such a body on an equal footing.
- 109.** In consultation, it has been suggested that a chair of a university council, perhaps nominated by the CUC, could take on the role of the independent chair of a successor body to HERRG if this is felt to be necessary. An alternative suggestion has been that this role could perhaps best be filled by a recently retired Vice-Chancellor. Both of these thoughts seem to me to be good ideas. But because I do not believe an independent chair to be necessary in future, I make no recommendations on this issue. It is a matter for the sector itself to resolve.
- 110.** The third issue that has arisen in consultation with key stakeholders is the question of the resourcing of future arrangements and the transition to them. UUK, in particular, has argued that if it is to take responsibility in future for the leadership of the better regulation agenda it must be given additional resources to do so, presumably from DIUS.

- 111.** There is an obvious flaw in this argument. The main beneficiaries of better regulation of higher education are HEIs themselves. So it is not unreasonable to expect them to pay the small amount that might be needed for any necessary continuing work in this area. The resources made available by DIUS for HERRG have been welcome, but have not been large. So if the sector is unable to match these, then perhaps this suggests that better regulation is not a major priority for it.
- 112.** For similar reasons, I am not proposing any special transitional arrangements. Instead, I believe that the sector needs to move quickly to decide how best to take forward these discussions in future.
- 113.** Key representative bodies have been aware for some time that HERRG has a limited lifespan. And the current HERRG members who were appointed in 2004 have already served for twice as long as they originally agreed to do. It was never envisaged that HERRG would be a permanent feature of the higher education landscape.
- 114.** Moreover, the new arrangements that might need to be put in place for the future are not complex. And good regulation is not going to stop happening in the interim period as a result of the absence of HERRG.
- 115.** But I nevertheless share the view that it would be helpful to ensure both a clean break when HERRG ceases to exist and a seamless transition as a sector-led body takes responsibility for whatever new arrangements are felt by the sector to be necessary.
- 116.** I can therefore see merit in DIUS providing some limited support – limited both in size and duration – to smooth this transition. And I can also see a case for principal regulators contributing by way of subscription to the costs of the body proposed at paragraph 102 above.

## Recommendation 6

*DIUS should give consideration to providing some small and time-limited support to the sector to smooth transition to the new arrangements.*

- 117.** Implicit in this recommendation is my belief that while Government should no longer sponsor a body such as HERRG, Government nevertheless has an important continuing role to play. Although some of the outstanding matters to be dealt with are principally the responsibility of other departments, the better regulation agenda must remain an important one for DIUS in particular, and there are several steps that can be taken to ensure this happens.
- 118.** For example, DIUS can help to ensure that better regulation remains a priority for Hefce by requiring the incorporation of a suitable performance target in the Hefce Strategic Plan. It can also commit itself to continuing to pursue with other bodies, or indeed with officials within DIUS itself, relevant concerns about regulatory issues raised from within the sector, in much the way that the HERRG secretariat has done in support of HERRG over the past four years. It could also maintain within its website the equivalent of the current HERRG website, where its expectations in relation to the continuing commitment of Concordat signatories to the Principles of Good Regulation are made clear. And, of course, it will be for DIUS to take forward the action proposed in recommendation 2 above, and to work with colleagues elsewhere in Government on recommendation 1.



- 119.** Paragraph 65 above suggests a possible further role for DIUS in encouraging relevant bodies to consider the proposal for a BSI standard in regulation that emerged from the HERRG workshop on 23 June 2008. But there was an important message emerging from this event, and also from the previous HERRG workshop on 16 May 2007, suggesting an additional future role for DIUS to play. This was the value that regulators attach to the opportunity to come together from time to time to discuss issues of mutual interest. They welcome the opportunity HERRG workshops have provided for them to communicate with each other, and they also welcome the opportunity to hear current ministerial views on regulatory issues. Organising an annual event of this kind would, in my view, be a useful contribution by DIUS to the continuing promotion of better regulation in higher education.
- 120.** In addition to this, DIUS should continue to produce an annual simplification plan explaining how it will pursue better regulation over the next year, and accounting for past performance. This should include coverage of DIUS's work with HEFCE and of the Leitch Implementation Plan.
- 121.** For all of this to happen, it is important that there should be a clear focal point within DIUS for its continuing work on better regulation.
- 122.** This does not necessarily require the retention of a unit equivalent to the HERRG secretariat, but it does require that a senior civil servant should act as a champion of better regulation and that this responsibility and the person carrying it should be visible to the HE sector. The DIUS HE better regulation champion should be available to discuss the progress of the better regulation agenda with stakeholder groups.

## Recommendation 7

*There should continue to be a senior civil servant within DIUS with a clear responsibility to champion better regulation and to discuss it with stakeholder groups. The responsibilities of this champion should include ensuring the incorporation of a suitable performance target in the Hefce Strategic Plan and maintaining the Department's commitment to pursue relevant concerns about regulatory issues raised from within the sector.*

- 123.** There has been discussion within HERRG about the future of the Higher Education Concordat when HERRG itself no longer exists. My own views on this are, in large measure, determined by the remit I was given when appointed in 2006 and my perception of the role the Concordat has played.
- 124.** As set out in paragraph 15 above, I was asked on appointment to develop the Concordat by encouraging other bodies involved in the regulation of higher education to become signatories to it, or to embrace its principles in other ways, to monitor the implementation of the Concordat and to report on the progress made by signatories to it in delivering the specific undertakings given by each of them. I believe this remit has been fulfilled.
- 125.** There are now 28 Concordat signatories or intended signatories. Agreement to the Concordat annexes of the three intended signatories can, in my view, be safely delegated to DIUS officials. And although there are some significant bodies that have not become signatories to the Concordat, and which in HERRG's view should have done so, recommendations 1 and 2 address these issues. There are no other bodies, beyond those covered by recommendations 1 and 2, which have a significant impact on the regulation of higher education. Hence, all the bodies that HERRG has prioritised as potential Concordat signatories are now included in Appendix 2 or in recommendations 1 and 2.

- 126.** In thinking about the future it is important to understand the role the Concordat has played to date. A major purpose of it was, it seems to me, to persuade the bodies that regulate higher education that endorsement of the Principles of Good Regulation also requires action on their part. It requires regulators to reconsider their current practices and to modify their approach where elements of those practices do not accord with the Principles. The requirement to produce annexes to the Concordat, and the challenge that HERRG has provided to draft annexes, have compelled regulators to think more carefully about the extent to which they have adopted those principles in practice. And this in turn has, in my view, won hearts and minds.
- 127.** To date, Concordat signatories have been asked to produce annual updates – occasionally more frequently than annual – on their delivery of the undertakings set out in their annexes to the Concordat. I expect current and intended Concordat signatories to maintain their commitment to its principles. But I am not in favour of placing any further obligations on them.
- 128.** The promotion of better regulation in higher education will not be advanced by imposing new regulatory requirements on regulators themselves. And by endorsing the Concordat and delivering on the promises set out in their annexes to it, regulators of higher education have demonstrated their clear understanding of what is required of them in the new, better regulation, era. The Concordat has a lasting value in articulating the Principles of Good Regulation in the higher education context, but development of the Concordat must not become an industry.
- 129.** Of course, there will be instances in future of Concordat signatories behaving in ways that appear to conflict with their commitment to the Principles of Good Regulation – in much the same way as our dealings with Government departments have been a cause of frustration for HERRG in 2007/08, as described in paragraphs 74 to 77 above. And when these occasions arise, I believe it will be the responsibility of sector-wide bodies, especially UUK, to identify them and provide the necessary degree of challenge.
- 130.** I believe that Government should therefore continue to maintain the currency of the Concordat, and the principles it enshrines, for the time being, but there should be no new Government-sponsored monitoring of its implementation. It must be for Concordat signatories and for the sector to decide whether there is a further role for the Concordat going forward, and if so what this will be.

## Conclusions and Recommendations

- 131.** It has been a huge privilege to have been able to chair HERRG for the last two years and in consequence to contribute to the better regulation of higher education. There are few other roles within the public sector in which the relationship between inputs and better outcomes is so clear. I am therefore grateful to ministers for according me this privilege, but more especially grateful for the continuing support they have demonstrated to our work.
- 132.** I am equally grateful for the input of HERRG members and for the tolerance of their contribution to the work of HERRG by the institutions in which the majority of them are employed.
- 133.** And I am grateful too for the support that HERRG has received from officials within DIUS. This is especially true of those within the HERRG secretariat, with whom I have had regular contact and who have been unfailing in their tolerance and support.

- 134.** Together, I believe we have all made a real contribution over the past two years to improving the way in which the regulation of universities and HE colleges is conducted.
- 135.** Better regulation is a journey, not a destination. There will never come a point at which those concerned with promoting better regulation will be able to announce “job done!” and take a bow. But there are important milestones along this journey and we have reached such a milestone now in relation to the better regulation of higher education in England.
- 136.** The purposes for which HERRG was established are now largely complete and the remit given to me when I was appointed two years ago has been fulfilled. This report, therefore, in addition to describing the work of HERRG over the past year, concludes that when my appointment expires there should not be a successor and that the Group should be stood down. This conclusion is a reflection of HERRG’s success.
- 137.** My report, however, acknowledges also that there will be unfinished business when HERRG ceases to exist. There are issues that will arise in the future which impact on the regulation of higher education and which will need a response. And there are current outstanding issues that will need to be pursued – the most important of them being beyond the competence of a body such as HERRG to address.
- 138.** My report therefore seeks to identify the outstanding issues and suggest how they might best be resolved and, following discussions with relevant bodies, it puts forward suggestions as to how issues arising in the future might best be dealt with. In this context, I make the following recommendations. They are addressed to ministers, regulators, and perhaps most importantly, to the higher education sector itself.

## **Recommendation 1**

*Government should require Sector Skills Councils to make an explicit commitment to the Principles of Good Regulation and to set out what actions they intend to take in pursuit of these principles, in the same manner as signatories to the Higher Education Concordat.*

## **Recommendation 2**

*DIUS and UUK, together with Guild HE, should work closely with the Council for Healthcare Regulatory Excellence to help it undertake research aimed at defining good practice in the quality assurance of education providers by healthcare regulatory bodies; and they should support it more generally in promoting the better regulation of healthcare education and training within higher education.*

## **Recommendation 3**

*Government should continue to promote better regulation among professional bodies and should conduct a review of their regulatory role using the engineering profession as an example of good practice.*

## **Recommendation 4**

*UUK and Guild HE should take a lead in maintaining pressure on Government to address concerns about the regulatory role of professional bodies; and they should provide leadership also in addressing the extent to which the sector itself lends support to practices that give rise to these concerns.*

## Recommendation 5

*UUK and Guild HE, in concert with Hefce, should take a lead in convening a standing forum for regular liaison, consultation and dialogue between universities, HE colleges and the bodies that regulate them, with regulation itself forming part of the agenda for these discussions.*

## Recommendation 6

*DIUS should give consideration to providing some small and time-limited support to the sector to smooth transition to the new arrangements.*

## Recommendation 7

*There should continue to be a senior civil servant within DIUS with a clear responsibility to champion better regulation and to discuss it with stakeholder groups. The responsibilities of this champion should include ensuring the incorporation of a suitable performance target in the Hefce Strategic Plan and maintaining the Department's commitment to pursue relevant concerns about regulatory issues raised from within the sector.*

- 139.** It is perhaps necessary, in conclusion, to note that there are many other recommendations that might once have been included in such a report as this but have not been – for the simple reason that they have ceased to be necessary. It would, for example, have been possible for me to make a series of recommendations in relation to the future conduct of the principal regulators of higher education, or the future extent of their activities. But if such recommendations had been necessary, it would not have been possible for me to conclude in this report that HERRG should now be wound up.
- 140.** This is an important point. Better regulation is fundamentally about attitudes rather than rules. And I believe that it has been a real achievement of HERRG that it has brought about a change of attitude among those responsible for funding and regulating higher education. Indeed, I believe this has been its greatest success. It may be its least tangible success. But I have no doubt that it will prove to be its most important legacy.

**Steve Bundred**

Chair, HERRG  
31 July 2008

# Appendix 1

## Membership of HERRG in 2007/08

The following were HERRG Members during the year to which this report relates.

- Steve Bundred (Chair) – Chief Executive, Audit Commission
- Jayne Aldridge – Head of Student Support Services, Thames Valley University
- David Allen – Registrar and Secretary, University of Exeter
- Jonathan Baldwin – Registrar, University of Warwick
- Alan Clark – Administrative Secretary, University of Cambridge
- Karen Everett – Director of Finance, Bournemouth University
- Ron Haylock – Chairman of the Committee of University Chairmen (2001-2004); Chairman of the Council, University of Nottingham (1996-2003)
- Steve Igoe – Pro Vice-Chancellor (Resources), Edge Hill University
- Sally Neocosmos – Registrar and Secretary, The University of York
- Maxine Penlington – Secretary and Registrar, Birmingham City University
- Jeremy Rayner – Pro Dean for Learning and Teaching, Faculty of Biological Sciences, University of Leeds
- Kathryn Southworth – Vice Principal, Newman College of Higher Education

In addition, a representative of the Better Regulation Executive attends HERRG meetings as an observer.

Attendance by Group members at its meetings during 2007/08, and at the Workshop held on 23 June, has been as follows:

	26/9/2007	17/1/2008	17/4/2008 <sup>2</sup>	23/6/2008	17/7/2008
<b>Steve Bundred</b>	✓	✓	✓	✓	✓
<b>Jayne Aldridge</b>	✓	✓	✗	✓	✗
<b>David Allen</b>	✗	✗	✗	✓	✓
<b>Jonathan Baldwin</b>	✓	✓	✗	✓	✓
<b>Alan Clark</b>	✓	✓	✓	✗	✓
<b>Karen Everett</b>	✗	✗	✗	✓	✗
<b>Ron Haylock</b>	✗	✓	✓	✗	✓
<b>Steve Igoe</b>	✓	✓	✓	✓	✓
<b>Sally Neocosmos</b>	✓	✓	✗	✓	✓
<b>Maxine Penlington</b>	✓	✓	✓	✓	✓
<b>Jeremy Rayner</b>	✓	✗	✓	✗	✓
<b>Kathryn Southworth</b>	✓	✗	✓	✓	✗

Administrative and Secretarial support has been provided to HERRG by John McLaughlin, Toby Sims, Sarah Rennie and Humphrey Fordham of DIUS.

Andrew Battarbee the DIUS Deputy Director for Higher Education Sector Shape and Structure also attends HERRG meetings and the Group has benefited greatly from his advice.

I am grateful to all of those named above for their support.

# Appendix 2

## Current signatories to the Higher Education Concordat

The following bodies are those that are signatories to the HERRG Concordat, or have clearly indicated their willingness to become so, as at 31 July 2008:

- Architects Registration Board
- British Psychological Society
- Department for Children Schools and Families
- Department of Health
- Department for Innovation Universities and Skills
- Foundation Degree Forward
- General Social Care Council
- Health Professions Council
- Higher Education Academy
- Higher Education Funding Council for England
- Higher Education Statistics Agency
- Information Centre for Health and Social Care
- Institution of Civil Engineers
- Institution of Engineering and Technology
- Joint Information Systems Committee
- Learning and Skills Council
- Managing Information Across Partners
- National Audit Office
- Nursing and Midwifery Council
- Office for Standards in Education, Children's Services and Skills (Ofsted)
- Quality Assurance Agency for Higher Education
- Research Councils UK
- Royal Institute of British Architects
- Skills for Business Network/ Alliance of Sector Skills Councils
- Skills for Health
- Student Loans Company Ltd
- Training and Development Agency for Schools
- Universities and Colleges Admissions Service

Of those listed above, discussions are still continuing with DCSF, the Higher Education Academy, and the Institution of Civil Engineers about the detail of the annexes to the Concordat that these bodies will provide, while the newly-formed Alliance of Sector Skills Councils is considering the precise form of its involvement with the Concordat. When finalised, the new annexes will be available on the HERRG website.

# Appendix 3

## Glossary

AHUA	Association of Heads of University Administration
ARB	Architects Registration Board
AUA	Association of University Administrators
BERR	Department for Business, Enterprise and Regulatory Reform
BPS	British Psychological Society
BRE	Better Regulation Executive
BRRG	Better Regulation Review Group
BRTF	Better Regulation Task Force
BUFDG	British Universities Finance Directors Group
CHRE	Council for Healthcare Regulatory Excellence
CUC	Committee of University Chairmen
DCSF	Department for Children, Schools and Families
DfES	Department for Education and Skills
DH	Department of Health
DIUS	Department for Innovation, Universities and Skills
ECUK	Engineering Council UK
EU	European Union
FDF	Foundation Degree Forward
FE	Further Education
GSCC	General Social Care Council
HE	Higher Education
Hefce	Higher Education Funding Council for England
HEI	Higher Education Institution
HEIDI	Higher Education Information Database for Institutions
HERRG	Higher Education Regulation Review Group
HESA	Higher Education Statistics Agency
LSC	Learning and Skills Council
QAA	Quality Assurance Agency
QAFRG	Quality Assurance Framework Review Group
RCUK	Research Councils UK
SSCs	Sector Skills Councils
TDA	Training and Development Agency for Schools
UKIPG	UK Inter-Professional Group
UUK	Universities UK

<sup>2</sup> Attendance at the meeting on 17 April 2008 was affected by a change of date









